

TITLE 54
PROFESSIONS, VOCATIONS, AND BUSINESSES

CHAPTER 55
MIDWIFERY

54-5501. LEGISLATIVE PURPOSE AND INTENT. [EFFECTIVE UNTIL JULY 1, 2024] The legislature finds and declares that the practice of midwifery has been a part of the culture and tradition of Idaho since before pioneer days and that for personal, religious and economic reasons some Idaho citizens choose midwifery care. The purpose of this chapter is to preserve the rights of families to deliver their children in a setting of their choice, to provide additional maternity care options for Idaho's families, to protect the public health, safety and welfare and to provide a mechanism to assure quality care.

[(54-5501) 54-5401, added 2009, ch. 65, sec. 1, p. 177; am. and re-desig. 2010, ch. 79, sec. 21, p. 147.]

54-5502. DEFINITIONS. [EFFECTIVE UNTIL JULY 1, 2024] As used in this chapter:

- (1) "Board" means the Idaho state board of midwifery.
- (2) "Bureau" means the Idaho state bureau of occupational licenses.
- (3) "Certified professional midwife" or "CPM" means a person who is certified by the North American registry of midwives or any successor organization.
- (4) "Client" means a woman under the care of a licensed midwife, as well as her fetus and newborn child.
- (5) "Estimated due date" means the estimated date of delivery with a known date of conception, known date of last menstrual period or first trimester ultrasound.
- (6) "Idaho midwifery council" or "IMC" means the professional organization representing midwives in Idaho.
- (7) "Idahoans for midwives" or "IFM" means the Idaho consumer organization that promotes and supports midwifery care in Idaho.
- (8) "Licensed health care provider" means a physician or physician assistant or an advanced practice registered nurse.
- (9) "Licensed midwife" means a person who holds a current license issued by the board pursuant to the provisions of this chapter to engage in the practice of midwifery, who shall be designated "L.M."
- (10) "Midwifery education accreditation council" or "MEAC" means the organization established in 1991 and recognized by the U.S. department of education as an accrediting agency for midwifery education programs and institutions.
- (11) "National association of certified professional midwives" or "NACPM" means the national organization for certified professional midwives.
- (12) "NACPM essential documents" means the documents adopted by NACPM that identify the nature of and standards of practice for responsible midwifery practice.
- (13) "North American registry of midwives" or "NARM" means the international certification agency that establishes and administers certification for the CPM credential.

(14) "Practice of midwifery" means providing maternity care for women and their newborns during the antepartum, intrapartum and postpartum periods. The postpartum period for both maternal and newborn care may not exceed six (6) weeks from the date of delivery.

[(54-5502) 54-5402, added 2009, ch. 65, sec. 1, p. 177; am. and redesign. 2010, ch. 79, sec. 22, p. 147; am. 2014, ch. 161, sec. 1, p. 450.]

54-5503. BOARD OF MIDWIFERY CREATED. [EFFECTIVE UNTIL JULY 1, 2024] (1) There is hereby established in the department of self-governing agencies, bureau of occupational licenses, a board of midwifery.

(2) The board shall consist of five (5) members appointed by the governor, three (3) of whom shall be licensed pursuant to this chapter, one (1) of whom shall be a licensed physician who is board-certified in either obstetrics/gynecology or family medicine, maintains current hospital privileges and has provided primary maternity care for at least twenty (20) births in the twelve (12) months prior to the appointment, and one (1) of whom shall be a member of the public with an interest in the rights of consumers of midwifery services.

(3) The term of office for each board member shall be five (5) years.

(4) In making appointments to the board, the governor's selection shall not be limited to nominations he receives; however, consideration shall be given to recommendations made by the Idaho midwifery council and Idahoans for midwives.

(5) The three (3) board members who are licensed midwives shall be licensed pursuant to this chapter, shall actively practice midwifery in the state of Idaho for the duration of their appointment and shall have been a practicing midwife in the state of Idaho for at least three (3) years immediately preceding their appointment.

(6) In the event of the death, resignation or removal of any board member before the expiration of the term to which he is appointed, the vacancy shall be filled for the unexpired portion of the term in the same manner as the original appointment.

(7) Board members shall serve at the pleasure of the governor.

(8) The board shall meet at least annually and elect a chairperson, and may hold additional meetings at the call of the chairperson or at the written request of any two (2) members of the board. A majority of the board shall constitute a quorum. The vote of a majority of members present at a meeting wherein a quorum is present shall determine the action of the board.

[(54-5503) 54-5403, added 2009, ch. 65, sec. 1, p. 178; am. and redesign. 2010, ch. 79, sec. 23, p. 148; am. 2019, ch. 42, sec. 1, p. 110.]

54-5504. BOARD OF MIDWIFERY -- POWERS AND DUTIES. [EFFECTIVE UNTIL JULY 1, 2024] The board shall have the authority and the responsibility to:

(1) Receive applications for licensure, determine the qualifications of persons applying for licensure, provide licenses to applicants qualified under this chapter and renew, suspend, revoke and reinstate licenses;

(2) Establish and collect fees for examination of applicants, for licensure and for renewal of licenses;

(3) Establish the minimum amount and type of continuing education to be required for each licensed midwife seeking renewal of the midwife's license;

(4) Investigate complaints against persons who are licensed under this chapter;

(5) Undertake, when appropriate, disciplinary proceedings and disciplinary action against persons licensed under this chapter;

(6) Promulgate and adopt rules, pursuant to [chapter 52, title 67](#), Idaho Code, necessary to administer this chapter. To the degree they are consistent with this chapter, rules shall be consistent with the current job description for the profession published by NARM and consistent with standards regarding the practice of midwifery established by the NACPM or a successor organization;

(7) Authorize, by written agreement, the bureau of occupational licenses to act as agent in its interest; and

(8) Provide such other services and perform such other functions as are consistent with this chapter and necessary to fulfill its responsibilities.

[(54-5504) 54-5404, added 2009, ch. 65, sec. 1, p. 179; am. and redesign. 2010, ch. 79, sec. 24, p. 148.]

54-5505. RULEMAKING.[EFFECTIVE UNTIL JULY 1, 2024] (1) The rules adopted by the board shall:

(a) Allow a midwife to obtain and administer, during the practice of midwifery, the following:

(i) Oxygen;

(ii) Oxytocin, misoprostol, and methylergonovine as postpartum antihemorrhagic agents;

(iii) Injectable local anesthetic for the repair of lacerations that are no more extensive than second degree;

(iv) Antibiotics to the mother for group b streptococcus prophylaxis consistent with guidelines of the United States centers for disease control and prevention;

(v) Epinephrine to the mother administered for anaphylactic shock;

(vi) Intravenous fluids for stabilization of the woman;

(vii) Rho(d)immune globulin;

(viii) Phytonadione; and

(ix) Eye prophylactics to the baby.

(b) Prohibit the use of other legend drugs, except those of a similar nature and character as determined by the board to be consistent with the practice of midwifery; provided that at least one hundred twenty (120) days' advance notice of the proposal to allow the use of such drugs is given to the board of pharmacy and the board of medicine and neither board objects to the addition of such drugs to the midwifery formulary;

(c) Define a protocol for use by licensed midwives of drugs approved in paragraphs (a) and (b) of this subsection that shall include methods of obtaining, storing and disposing of such drugs and an indication for use, dosage, route of administration and duration of treatment;

(d) Define a protocol for medical waste disposal; and

(e) Establish scope and practice standards for antepartum, intrapartum, postpartum and newborn care that shall, at a minimum:

(i) Prohibit a licensed midwife from providing care for a client with a history of disorders, diagnoses, conditions or symptoms that include:

1. Placental abnormality;

2. Multiple gestation, except that midwives may provide antepartum care that is supplementary to the medical care of the physician overseeing the pregnancy, as long as it does

not interfere with the physician's recommended schedule of care;

3. Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first;

4. Birth under thirty-seven and zero-sevenths (37 0/7) weeks and beyond forty-two and zero-sevenths (42 0/7) weeks gestational age;

5. A history of more than one (1) prior cesarean section, a cesarean section within eighteen (18) months of the estimated due date or any cesarean section that was surgically closed with a classical or vertical uterine incision;

6. Platelet sensitization, hematological or coagulation disorders;

7. A body mass index of forty (40.0) or higher at the time of conception;

8. Prior chemotherapy and/or radiation treatment for a malignancy;

9. Previous pre-eclampsia resulting in premature delivery;

10. Cervical insufficiency;

11. HIV positive status; or

12. Opiate use that places the infant at risk of neonatal abstinence syndrome.

(ii) Prohibit a licensed midwife from providing care for a client with a history of the following disorders, diagnoses, conditions or symptoms unless such disorders, diagnoses, conditions or symptoms are being treated, monitored or managed by a licensed health care provider:

1. Diabetes;

2. Thyroid disease;

3. Epilepsy;

4. Hypertension;

5. Cardiac disease;

6. Pulmonary disease;

7. Renal disease;

8. Gastrointestinal disorders;

9. Previous major surgery of the pulmonary system, cardiovascular system, urinary tract or gastrointestinal tract;

10. Abnormal cervical cytology;

11. Sleep apnea;

12. Previous bariatric surgery;

13. Hepatitis;

14. History of illegal drug use or excessive prescription drug use; or

15. Rh or other blood group disorders and a physician determines the pregnancy can safely be attended by a midwife.

(iii) Require a licensed midwife to recommend that a client see a physician licensed under [chapter 18, title 54](#), Idaho Code, or under an equivalent provision of the law of a state bordering Idaho and to document and maintain a record as required by section [54-5511](#), Idaho Code, if such client has a history of disorders, diagnoses, conditions or symptoms that include:

1. Previous complicated pregnancy;

2. Previous cesarean section;

3. Previous pregnancy loss in second or third trimester;
 4. Previous spontaneous premature labor;
 5. Previous pre-term rupture of membranes;
 6. Previous pre-eclampsia;
 7. Previous hypertensive disease of pregnancy;
 8. Parvo;
 9. Toxo;
 10. CMV;
 11. HSV;
 12. Previous maternal/newborn group b streptococcus infection;
 13. A body mass index of at least thirty-five (35.0) but less than forty (40.0) at the time of conception;
 14. Underlying family genetic disorders with potential for transmission; or
 15. Psychosocial situations that may complicate pregnancy.
- (iv) Require that a licensed midwife shall facilitate the immediate transfer to a hospital for emergency care for disorders, diagnoses, conditions or symptoms that include:
1. Maternal fever in labor;
 2. Suggestion of fetal jeopardy such as bleeding or meconium or abnormal fetal heart tones;
 3. Noncephalic presentation at the onset of labor or rupture of membranes, whichever occurs first, unless imminent delivery is safer than transfer;
 4. Second stage labor after two (2) hours of initiation of pushing when the mother has had a previous cesarean section;
 5. Current spontaneous premature labor;
 6. Current pre-term premature rupture of membranes;
 7. Current pre-eclampsia;
 8. Current hypertensive disease of pregnancy;
 9. Continuous uncontrolled bleeding;
 10. Bleeding which necessitates the administration of more than two (2) doses of oxytocin or other antihemorrhagic agent;
 11. Delivery injuries to the bladder or bowel;
 12. Grand mal seizure;
 13. Uncontrolled vomiting;
 14. Coughing or vomiting of blood;
 15. Severe chest pain; or
 16. Sudden onset of shortness of breath and associated labored breathing.

A transfer of care shall be accompanied by the client's medical record, the licensed midwife's assessment of the client's current condition and a description of the care provided by the licensed midwife prior to transfer;

- (v) Establish a written plan for the emergency transfer and transport required in subparagraph (iv) of this paragraph and for notifying the hospital to which a client will be transferred in the case of an emergency. If a client is transferred in an emergency, the licensed midwife shall notify the hospital when the transfer is initiated and accompany the client to the hospital if feasible, or communicate by telephone with the hospital if unable

to be present personally, and shall provide the client's medical record. The record shall include the client's name, address, list of diagnosed medical conditions, list of prescription or over-the-counter medications regularly taken, history of previous allergic reactions to medications, if feasible the client's current medical condition and description of the care provided by the midwife and next of kin contact information. A midwife who deems it necessary to transfer or terminate care pursuant to this section and any rules promulgated under this section or for any other reason shall transfer or terminate care and shall not be regarded as having abandoned care or wrongfully terminated services. Before nonemergent discontinuing of services, the midwife shall notify the client in writing, provide the client with names of licensed physicians and contact information for the nearest hospital emergency room and offer to provide copies of medical records regardless of whether copying costs have been paid by the client.

(f) Establish and operate a system of peer review for licensed midwives that shall include, but not be limited to, the appropriateness, quality, utilization and the ethical performance of midwifery care.

(2) The rules adopted by the board may not:

(a) Require a licensed midwife to have a nursing degree or diploma;

(b) Except as a condition imposed by disciplinary proceedings by the board, require a licensed midwife to practice midwifery under the supervision of another health care provider;

(c) Except as a condition imposed in disciplinary proceedings by the board, require a licensed midwife to enter into an agreement, written or otherwise, with another health care provider;

(d) Limit the location where a licensed midwife may practice midwifery;

(e) Allow a licensed midwife to use vacuum extraction or forceps as an aid in the delivery of a newborn;

(f) Grant a licensed midwife prescriptive privilege;

(g) Allow a licensed midwife to perform abortions.

[(54-5505) 54-5405, added 2009, ch. 65, sec. 1, p. 179; am. and redesign. 2010, ch. 79, sec. 25, p. 149; am. 2014, ch. 161, sec. 2, p. 451; am. 2019, ch. 42, sec. 2, p. 111.]

54-5506. LICENSURE -- PENALTY. [EFFECTIVE UNTIL JULY 1, 2024] (1) The board shall grant a license to any person who submits a completed application, pays the required license fee as established by the board and meets the qualifications set forth in section [54-5507](#), Idaho Code.

(2) All licenses issued under this chapter shall be for a term of one (1) year and shall expire on the birthday of the licensee unless renewed in the manner prescribed by rule. Except as set forth in this chapter, rules governing procedures and conditions for license renewal and reinstatement shall be in accordance with section [67-2614](#), Idaho Code.

(3) It is a misdemeanor for any person to assume or use the title or designation "licensed midwife," "L.M." or any other title, designation, words, letters, abbreviations, sign, card or device to indicate to the public that such person is licensed to practice midwifery pursuant to this chapter unless such person is so licensed. Any person who pleads guilty to or is found guilty of a second or subsequent offense under this subsection shall be guilty of a felony.

(4) Except as provided in section [54-5508](#), Idaho Code, it shall be a misdemeanor for any person to engage in the practice of midwifery without a license. Any person who pleads guilty to or is found guilty of a second or subsequent offense under this subsection shall be guilty of a felony.

[(54-5506) 54-5406, added 2009, ch. 65, sec. 1, p. 182; am. and redesign. 2010, ch. 79, sec. 26, p. 152; am. 2019, ch. 42, sec. 3, p. 114.]

54-5507. QUALIFICATIONS FOR LICENSURE.[EFFECTIVE UNTIL JULY 1, 2024] A person shall be eligible to be licensed as a midwife if the person:

- (1) Provides proof of current certification as a CPM by NARM or a successor organization;
- (2) Files a board-approved application for licensure and pays the required fees; and
- (3) Provides documentation of successful completion of board-approved MEAC accredited courses in pharmacology, the treatment of shock/IV therapy and suturing specific to midwives.

[(54-5507) 54-5407, added 2009, ch. 65, sec. 1, p. 182; am. and redesign. 2010, ch. 79, sec. 27, p. 152; am. 2019, ch. 42, sec. 4, p. 114.]

54-5508. EXEMPTIONS.[EFFECTIVE UNTIL JULY 1, 2024] This chapter shall not apply to any of the following:

- (1) Certified nurse midwives authorized under the board of nursing to practice in Idaho, unless a certified nurse midwife chooses to become a licensed midwife. Certified nurse midwives who are licensed midwives shall be subject to the provisions of [chapter 14, title 54](#), Idaho Code, as well as to the provisions of this chapter;
- (2) Student midwives in training under the direct supervision of licensed midwives as required by NARM;
- (3) A person, in good faith, engaged in the practice of the religious tenets of any church or religious act where no fee is contemplated, charged or received, whose license to practice midwifery has not been revoked and who has not plead guilty to or been found guilty of a felony for a violation of the provisions of section [54-5506](#), Idaho Code;
- (4) A person administering a remedy, diagnostic procedure or advice as specifically directed by a physician;
- (5) A person rendering aid in an emergency where no fee for the service is contemplated, charged or received;
- (6) A person administering care to a member of such person's family;
- (7) The practice of a profession by individuals who are licensed, certified or registered under other laws of this state and are performing services within the authorized scope of practice.

[(54-5508) 54-5408, added 2009, ch. 65, sec. 1, p. 183; am. and redesign. 2010, ch. 79, sec. 28, p. 153.]

54-5509. FEES.[EFFECTIVE UNTIL JULY 1, 2024] (1) All fees received under the provisions of this chapter shall be paid to the department of self-governing agencies, bureau of occupational licenses and deposited in the state treasury to the credit of the occupational licenses fund. All costs and expenses incurred under the provisions of this chapter shall be a charge against and paid from said fund. In no case may any salary, expense or other obligation of the board be charged against the general fund.

(2) The fee for licensure may not exceed one thousand dollars (\$1,000).

[(54-5509) 54-5409, added 2009, ch. 65, sec. 1, p. 183; am. and redesign. 2010, ch. 79, sec. 29, p. 153.]

54-5510. CLIENT PROTECTION -- UNPROFESSIONAL CONDUCT. [EFFECTIVE UNTIL JULY 1, 2024] A licensed midwife or applicant for licensure, renewal or reinstatement may not:

- (1) Disregard a client's dignity or right to privacy as to her person, condition, possessions or medical record;
- (2) Breach any legal requirement of confidentiality with respect to a client, unless ordered by a court of law;
- (3) Submit a birth certificate known by the person to be false or fraudulent, or willfully make or file false or incomplete reports or records in the practice of midwifery;
- (4) Fail to provide information sufficient to allow a client to give fully informed consent;
- (5) Engage in the practice of midwifery while impaired because of the use of alcoholic beverages or drugs; and
- (6) Violate any other standards of conduct as determined by the board in rules adopted for the regulation of the practice of midwifery.

[(54-5510) 54-5410, added 2009, ch. 65, sec. 1, p. 183; am. and redesign. 2010, ch. 79, sec. 30, p. 153.]

54-5511. DISCLOSURE AND RECORDKEEPING -- LICENSE RENEWAL. [EFFECTIVE UNTIL JULY 1, 2024] (1) Before initiating care, a licensed midwife shall obtain a signed informed consent agreement from each client, acknowledging receipt, at minimum, of the following:

- (a) The licensed midwife's training and experience;
- (b) Instructions for obtaining a copy of the rules adopted by the board pursuant to this chapter;
- (c) Instructions for obtaining a copy of the NACPM essential documents and NARM job description;
- (d) Instructions for filing complaints with the board;
- (e) Notice of whether or not the licensed midwife has professional liability insurance coverage;
- (f) A written protocol for emergencies, including hospital transport that is specific to each individual client;
- (g) A description of the procedures, benefits and risks of home birth, primarily those conditions that may arise during delivery; and
- (h) Any other information required by board rule.

(2) All licensed midwives shall maintain a record of all signed informed consent agreements for each client for a minimum of nine (9) years after the last day of care for such client.

(3) Before providing care for a client who has a history of disorders, diagnoses, conditions or symptoms identified in section [54-5505](#)(1)(e)(ii), Idaho Code, the licensed midwife shall provide written notice to the client that the client shall obtain care from a physician licensed pursuant to [chapter 18, title 54](#), Idaho Code, as a condition to her eligibility to obtain maternity care from the licensed midwife. Before providing care for a client who has a history of disorders, diagnoses, conditions or symptoms identified in section [54-5505](#)(1)(e)(iii), Idaho Code, or who has had a previous cesarean section, the licensed midwife shall provide written notice to

the client that the client is advised to consult with a physician licensed pursuant to [chapter 18, title 54](#), Idaho Code, during her pregnancy. The midwife shall obtain the client's signed acknowledgment of receipt of said notice.

(4) Any licensed midwife submitting an application to renew a license shall compile and submit to the board complete practice data for the calendar year preceding the date of the application. Such information shall be provided in form and content as prescribed by rule of the board and shall include, but not be limited to:

- (a) The number of clients to whom care has been provided by the licensed midwife;
- (b) The number of deliveries performed by the licensed midwife;
- (c) The apgar scores of the infants delivered by the licensed midwife;
- (d) The number of prenatal transfers;
- (e) The number of transfers during labor, delivery and immediately following birth;
- (f) Any perinatal deaths; and
- (g) Other morbidity statistics as required by the board.

[(54-5511) 54-5411, added 2009, ch. 65, sec. 1, p. 183; am. and redesign. 2010, ch. 79, sec. 31, p. 154; am. 2019, ch. 42, sec. 5, p. 115.]

54-5512. IMMUNE FROM VICARIOUS LIABILITY.[EFFECTIVE UNTIL JULY 1, 2024] No physician, hospital, emergency room personnel, emergency medical technician or ambulance personnel shall be liable in any civil action arising out of any injury resulting from an act or omission of a licensed midwife, even if the health care provider has consulted with or accepted a referral from the licensed midwife. A physician who consults with a licensed midwife but who does not examine or treat a client of the midwife shall not be deemed to have created a physician-patient relationship with such client.

[(54-5512) 54-5412, added 2009, ch. 65, sec. 1, p. 184; am. and redesign. 2010, ch. 79, sec. 32, p. 154.]

54-5513. SEVERABILITY.[EFFECTIVE UNTIL JULY 1, 2024] The provisions of this chapter are hereby declared to be severable and if any provision of this chapter or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of the remaining portions of this chapter.

[(54-5513) 54-5413, added 2009, ch. 65, sec. 1, p. 184; am. and redesign. 2010, ch. 79, sec. 33, p. 155.]